

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.630 OF 1992

The State of Maharashtra ... Appellant  
versus

Ashok Tukaram Ghate and ors. ... Respondents

...

Mr.A.S. Gadkari, A.P.P., for the Appellant.

...

CORAM : A.M.KHANWILKAR, J.

22nd March 2005

P.C.:

. This appeal takes exception to the decision of the Judicial Magistrate, First Class, Wai, dated 2nd April 1990, acquitting the Respondents of charge of offence under section 324 read with section 34 of the Indian Penal Code. None appears for the Respondents, though served. With the assistance of the learned A.P.P., I have gone through the materials on record. In my opinion, the conclusion reached by

the lower Court in recording finding of no guilt in favour of the Respondents is unexceptionable. The Court below has rightly observed that the weapons of assault have not been identified by the prosecution witnesses. In other words, the weapons of assault have not been proved by the prosecution. Besides, the finding recorded by the lower Court is that the injuries suffered by the victims cannot be attributed to the weapons recovered during the investigation. In other words, the evidence that the injuries occurring on the person of the injured have been caused by Article A to D, the sticks and the skythes, cannot be relied upon. Besides, the conclusion reached by the Court below in discarding the evidence of the star witnesses, P.W.1 and P.W.4, who were stated to be independent witnesses, is also appropriate. Insofar as P.W.1 is concerned, version given by him does not justify the nature of injuries suffered by the injured. The version by the prosecution witnesses is in puppet like manner, which is obviously tutored version. The injuries mentioned in Exhibit 34 do not correspond with the deposition of P.W.1. Moreover, the behaviour of the prosecution

witnesses is obviously unnatural because they have not even attempted to stop the assault and were only spectators at the relevant time. Moreover, the clothes allegedly recovered from the accused were produced before the Court only after lapse of five years. In that view of the matter, the lower Court has discarded even the evidence regarding recovery of the blood stained clothes. No fault can be found with the said approach of the lower Court. On taking overall view of the matter, it is clear that the substantive evidence adduced by the prosecution has been rightly discarded by the lower Court and if that goes, the Respondents accused cannot be proceeded or finding of guilt recorded against them. In other words, the view taken by the lower Court being a possible view, no interference is warranted in an appeal against acquittal.

. There is another aspect of the matter. The offence in question allegedly took place on 31st August 1985. With the passage of time, the Respondents accused must have settled down in life and there is nothing on record to indicate

that there are any antecedents against the Respondents or that they indulged in any other activity during the trial or pendency of this appeal.

. In the circumstances, this appeal is devoid of merits. Hence dismissed. Bail bonds to stand cancelled.

(A.M.KHANWILKAR, J.)